

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**ZECKEYA PERRY
ADC #156241**

PLAINTIFF

v.

Case No. 4:20CV00052-JM-JJV

IVORY McDANIEL,¹ *et al.*

DEFENDANTS

ORDER

The Court has reviewed the Proposed Findings and Recommended Disposition submitted by United States Magistrate Judge Joe J. Volpe. After carefully considering Mr. Perry's timely filed objections and making a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommended Disposition should be, and hereby is, approved and adopted in its entirety as this Court's findings in all respects.

IT IS, THEREFORE, ORDERED THAT:

1. Defendants' Motion for Partial Summary Judgment for failure to exhaust administrative remedies (Doc. No. 68) is GRANTED in part and DENIED in part.
2. Defendants' Motion (Doc. No. 68) is GRANTED as follows:
 - Plaintiff's claims against Defendant McDaniel for the period of April 16 – 23, 2019 are DISMISSED without prejudice for failure to exhaust.

¹ The Clerk of the Court is directed to change the following Defendants names on the docket as set out below: Defendant Ivory McDaniels to Ivory McDaniel; Defendant Litzey to Everett Litzey; Defendant Jackson to Anthony Jackson; Defendant Blunt to Dora Blunt; Defendant Matthews to Sheila Matthews; Defendant Graydon to Falandus Graydon; Defendant Gardner to James Gardner; Defendant Clark to Richard Clark; Defendant Patterson to Lakita Patterson; Defendant McCraney to Marquise McCraney; Defendant Ply to Elizabeth Ply; Defendant Houston to Shelby Houston; Defendant Cirreno to Richard Cirreno; Defendant Johnson to Lashonda Johnson; Defendant Russell to Justin Russell; and Defendant Stewart to Christopher Stewart. (Doc. No. 19)

- Plaintiff's claims for the period of April 24, 25, 27, and 28, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims against Defendants McDaniel, Matthews, Gardner and Clark for the period of April 26 and 29, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims against Defendants McDaniel, Matthews, Gardner and Clark for the period of May 1-3 and May 6-9, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims against Defendants McDaniel and Matthews for the period of May 10, 13, 15-17, and 20-22, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims against Defendant Randle for the period of June 10, 12-14, 17-18, 20-21, 24, and 26-28, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims as to July 27-28, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims against Defendant Randle arising in the month of July 2019 are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims as to August 3-4, 10-11, 17-18, 24-25, and 30-31, 2019, are DISMISSED without prejudice for failure to exhaust.
- Plaintiff's claims as to September 1-2, 4-9, 11, 13-14, 2019, are DISMISSED without prejudice for failure to exhaust.

- Plaintiff's retaliation claims arising on October 16-22 are DISMISSED without prejudice for failure to exhaust.

3. Defendants' Motion (Doc. No. 68) as to Plaintiff's March 2019 claims is DENIED.

4. Defendants' Motion (Doc. No. 68) as to Grievance MX-19-01743 is DENIED.

5. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting these recommendations would not be taken in good faith.

DATED this 17th day of March, 2021.


UNITED STATES DISTRICT JUDGE